

AMENDED IN SENATE AUGUST 28, 1997  
AMENDED IN ASSEMBLY MAY 19, 1997  
AMENDED IN ASSEMBLY MAY 13, 1997  
AMENDED IN ASSEMBLY APRIL 8, 1997  
AMENDED IN ASSEMBLY APRIL 1, 1997  
AMENDED IN ASSEMBLY MARCH 13, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 221**

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**Introduced by Assembly Member Goldsmith**  
**(Coauthors: Assembly Members Aguiar, Aroner, Ashburn,**  
**Baca, Bordonaro, Brewer, Figueroa, Floyd, House, Leach,**  
**Machado, Margett, Migden, Oller, Papan, Perata,**  
**Poochigian, Richter, Thomson, Washington, and Wayne)**  
(Coauthors: Senators Leslie, Peace, and Solis)

February 5, 1997

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An act to amend Sections 1241 and 2058 of the Business and Professions Code, and to add Section 1596.797 to the Health and Safety Code, relating to health.

### LEGISLATIVE COUNSEL'S DIGEST

AB 221, as amended, Goldsmith. Health: blood glucose monitoring.

Existing law regulates the practice of clinical laboratory technology and exempts from that regulation certain clinical

laboratories, and persons performing clinical laboratory tests or examinations in these clinical laboratories.

This bill would also exempt those *clinical laboratories that have registered with the State Department of Health Services to perform blood glucose testing for the purpose of monitoring a minor child diagnosed with diabetes when the person performing the test has been entrusted with the care and control of the child by the child's parent or legal guardian and certain requirements are satisfied. The bill would require any place where blood glucose testing is performed pursuant to these provisions to register, and it would exempt registrants pursuant to these provisions from registration or renewal fees and routine inspection by the State Department of Health Services.*

Existing law, the Medical Practice Act, prohibits the unauthorized practice of medicine, but also provides that it does not prohibit service in the case of emergency, or the domestic administration of family remedies.

This bill would provide that the act shall not be construed to prohibit obtaining a blood specimen by skin puncture for the purpose of performing blood glucose testing for the purposes of monitoring a minor child with diabetes in accordance with specified requirements.

Existing law provides for the licensure and regulation of child day care facilities by the State Department of Social Services.

This bill would authorize blood glucose testing for the purposes of monitoring a minor child with diabetes to be performed in a child day care facility in accordance with specified requirements. The bill would prohibit any provision of law from requiring an insulin injection to be administered to a child in a child day care facility.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1241 of the Business and  
2 Professions Code is amended to read:



1 1241. (a) This chapter applies to all clinical  
2 laboratories in California or receiving biological  
3 specimens originating in California for the purpose of  
4 performing a clinical laboratory test or examination, and  
5 to all persons performing clinical laboratory tests or  
6 examinations or engaging in clinical laboratory practice  
7 in California or on biological specimens originating in  
8 California, except as provided in subdivision (b).

9 (b) This chapter shall not apply to any of the following  
10 clinical laboratories, or to persons performing clinical  
11 laboratory tests or examinations in any of the following  
12 clinical laboratories:

13 (1) Those owned and operated by the United States of  
14 America, or any department, agency, or official thereof  
15 acting in his or her official capacity to the extent that the  
16 Secretary of the federal Department of Health and  
17 Human Services has modified the application of CLIA  
18 requirements to those laboratories.

19 (2) Public health laboratories, as defined in Section  
20 1206.

21 (3) Those that perform clinical laboratory tests or  
22 examinations for forensic purposes only.

23 (4) Those that perform clinical laboratory tests or  
24 examinations for research and teaching purposes only  
25 and do not report or use patient-specific results for the  
26 diagnosis, prevention, or treatment of any disease or  
27 impairment of, or for the assessment of the health of, an  
28 individual.

29 (5) Those that perform clinical laboratory tests or  
30 examinations certified by the National Institutes on Drug  
31 Abuse only for those certified tests or examinations.  
32 However, all other clinical laboratory tests or  
33 examinations conducted by the laboratory are subject to  
34 this chapter.

35 (6) Those that *register with the State Department of*  
36 *Health Services pursuant to subdivision (c) to perform*  
37 *blood glucose testing for the purposes of monitoring a*  
38 *minor child diagnosed with diabetes when the person*  
39 *performing the test has been entrusted with the care and*

1 control of the child by the child's parent or legal guardian  
2 and provided that all of the following occur:

3 (A) The blood glucose monitoring test is performed  
4 with a blood glucose monitoring instrument that has been  
5 approved by the federal Food and Drug Administration  
6 for sale over the counter to the public without a  
7 prescription.

8 (B) The person has been provided written  
9 instructions by the child's health care provider or an  
10 agent of the child's health care provider in accordance  
11 with the manufacturer's instructions on the proper use of  
12 the monitoring instrument and the handling of any  
13 lancets, test strips, cotton balls, or other items used during  
14 the process of conducting a blood glucose test.

15 (C) The person, receiving written authorization from  
16 the minor's parent or legal guardian, complies with  
17 written instructions from the child's health care provider,  
18 or an agent of the child's health care provider, regarding  
19 the performance of the test and the operation of the blood  
20 glucose monitoring instrument, including how to  
21 determine if the results are within the normal or  
22 therapeutic range for the child, and any restriction on  
23 activities or diet that may be necessary.

24 (D) The person complies with specific written  
25 instructions from the child's health care provider or an  
26 agent of the child's health care provider regarding the  
27 identification of symptoms of hypoglycemia or  
28 hyperglycemia, and actions to be taken when results are  
29 not within the normal or therapeutic range for the child.  
30 The instructions shall also contain the telephone number  
31 of the child's health care provider and the telephone  
32 number of the child's parent or legal guardian.

33 (E) The person records the results of the blood glucose  
34 tests and provides them to the child's parent or legal  
35 guardian on a daily basis.

36 (F) The person complies with universal precautions  
37 when performing the testing and posts a list of the  
38 universal precautions in a prominent place within the  
39 ~~child day care facility.~~ *proximity where the test is*  
40 *conducted.*



1 (c) Any place where blood glucose testing is  
2 performed pursuant to this section shall register by  
3 notifying the State Department of Health Services in  
4 writing no later than 30 days after testing has  
5 commenced. Registrants pursuant to this subdivision  
6 shall not be required to pay any registration or renewal  
7 fees nor shall they be subject to routine inspection by the  
8 State Department of Health Services.

9 SEC. 2. Section 2058 of the Business and Professions  
10 Code is amended to read:

11 2058. (a) Nothing in this chapter prohibits service in  
12 the case of emergency, or the domestic administration of  
13 family remedies.

14 (b) Nothing in this chapter shall be construed to  
15 prohibit obtaining a blood specimen by skin puncture for  
16 the purpose of performing blood glucose testing for the  
17 purposes of monitoring a minor child in accordance with  
18 paragraph (6) of subdivision (b) of Section 1241.

19 SEC. 3. Section 1596.797 is added to the Health and  
20 Safety Code, to read:

21 1596.797. (a) Blood glucose testing for the purposes  
22 of monitoring a minor child diagnosed with diabetes may  
23 be performed in a child day care facility in accordance  
24 with paragraph (6) of subdivision (b) of Section 1241 of  
25 the Business and Professions Code.

26 (b) Nothing in this section, or in any other provision of  
27 law, including, but not limited to, Section 1241 or 2058 of  
28 the Business and Professions Code, shall require an insulin  
29 injection to be administered to any child in a child day  
30 care facility.